

CITY COUNCIL AGENDA

FEBRUARY 14, 2017

SYNOPSIS

CHAPPIE JONES	DISTRICT 1		DEV DAVIS	DISTRICT 6
SERGIO JIMENEZ	DISTRICT 2		TAM NGUYEN	DISTRICT 7
RAUL PERALEZ	DISTRICT 3	SAM LICCARDO MAYOR	SYLVIA ARENAS	DISTRICT 8
LAN DIEP	DISTRICT 4		DONALD ROCHA	DISTRICT 9
MAGDALENA CARRASCO	DISTRICT 5		JOHNNY KHAMIS	DISTRICT 10
VICE MAYOR				



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- *Strategic Support Services* The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- Community & Economic Development Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- *Neighborhood Services* Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- *Transportation & Aviation Services* A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- *Environment and Utility Services* Manage environmental services and utility systems to ensure a sustainable environment for the community.
- *Public Safety Services* Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard. This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at http://www.sanjoseca.gov/index.aspx?NID=5322. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or City.Clerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

Call to Order and Roll Call

9:35 a.m. - Closed Session, Call to Order in Council Chambers
Absent Councilmembers: None.

1:31 p.m. - Regular Session, Council Chambers, City Hall **Absent Councilmembers: None.**

6:08 p.m. - Public Hearings, Council Chambers, City Hall **Absent Councilmembers: None.**

• Invocation (District 2)

Ahmad Salman, Regional Missionary Northern California, Ahmadiyya Muslim Community USA Member, Muslim Writers Guild America Bay Point, provided the Invocation.

- Pledge of Allegiance
 Mayor Liccardo led the Pledge of Allegiance.
- Orders of the Day Heard after Ceremonial Items
 The Orders of the Day and the Amended Agenda were approved.
- Closed Session Report None provided.

CEREMONIAL ITEMS 1.

1.1 Presentation of a commendation to Truong Thi Thinh for more than 20 years of dedication and passion for the arts. (Nguyen)

Mayor Sam Liccardo and Councilmember Tam Nguyen presented a commendation to Truong Thi Thinh for more than 20 years of dedication and passion for the arts, including her efforts to lead the next generation to pursue their passion for the arts.

Heard in the evening.

CONSENT CALENDAR 2.

2.1 Approval of City Council Minutes.

Recommendation: Approval of City Council Minutes.

Regular Minutes of December 6, 2016. (a)

CEOA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Approved.

2.2 **Final Adoption of Ordinances.**

Recommendation: Final Adoption of Ordinances.

ORD. NO. 29873 – An ordinance of the City of San José granting a Commercial (a) Solid Waste and Recyclables Collection Franchise to Sergio Barajas DBA Bay Area Dumpsters. CEQA: Exempt, File No. PP08-228, CEQA Section 15308 Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)

Ordinance No. 29873 adopted.

(b) ORD. NO. 29874 – An ordinance of the City of San José granting a Commercial Solid Waste and Recyclables Collection Franchise to Francisco Toca DBA Toca Debris Box. CEQA: Exempt, File No. PP08-228, CEQA Section 15308 Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)

Ordinance No. 29874 adopted.

2.3 **Approval of Council Committee Minutes.**

Recommendation: Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of January 18, 2017. (Mayor)
- Rules and Open Government Committee Minutes of January 25, 2017. (Mayor) CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. Approved.

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2. CONSENT CALENDAR

- 2.4 Mayor and Council Excused Absence Requests. None provided.
- 2.5 City Council Travel Reports. None provided.
- 2.6 Report from the Council Liaison to the Retirement Boards.
 None provided.
- 2.7 Report on Request for Proposal to Provide Digital Inclusion and Broadband Strategy Consulting Services. *RENUMBERED*

Recommendation: Adopt a resolution authorizing the City Manager or designee to negotiate and execute an Agreement with Price Waterhouse Coopers (PwC) to provide digital inclusion and broadband strategy consulting services from February 15, 2017 through December 31, 2017, for an amount not to exceed \$315,000. CEQA: Exempt, File No. PP10-066(d), Agreements and Contracts, Consultant Services. (City Manager) *Renumbered to Item 3.5*

See Item 3.5 for Action taken.

2.8 Ordinance Implementing Changes from the Alternative Pension Reform Framework Agreement and Measure F.

Recommendation: Approve an ordinance repealing Section 3.04.490 of Chapter 3.04, amending various sections of Chapters 3.32, 3.36 and 3.44 and adding a new Chapter 3.57 in Title 3 of the San José Municipal Code to implement revisions for the pension and retiree healthcare plans for members of the City of San José Police and Fire Department Retirement Plan. CEQA: Not a Project; PP10-068(b), Municipal Code or Policy. (City Manager)

Ordinance No. 29879 passed for publication.

2.9 Amendment to the Agreement with Schindler Elevator Corporation for Elevator and Escalator Maintenance Services at the Airport.

Recommendation: Adopt a resolution authorizing the City Manager to execute the Fifth Amendment to the Agreement with Schindler Elevator Corporation (San Leandro, CA) for Elevator and Escalator Maintenance Services at the Airport, to add one additional one-year option to extend the term from June 30, 2017 through June 30, 2018, under the same terms and conditions, at a maximum annual compensation of \$344,033, subject to the annual appropriation of funds. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Finance)

Resolution No. 78084 adopted.

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2. CONSENT CALENDAR

2.10 Amendment to the Master License and Service Agreement with Coresite Real Estate 55 S. Market Street, LLC for Space and Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute the Sixth Amendment to the Master License and Service Agreement with Coresite Real Estate 55 S. Market Street, LLC (Denver, CO) to align the term of space licenses and extend the term of the Agreement through January 11, 2020, at a maximum compensation of \$74,393 for the first twelve months, with subsequent annual price adjustments capped at 3% a year, subject to the annual appropriation of funds; and
- (b) Negotiate and execute amendments, change orders, to cover any unanticipated changes to the City's requirements, and extend the term of the Agreement for ongoing license fees and services after January 11, 2020 with price adjustments capped at 3% a year, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (Finance)

Resolution No. 78085 adopted.

2.11 Amendment to the City's Pay Plan for Various Classifications.

Recommendation: Adopt a resolution to amend the City of San José Pay Plan effective February 14, 2017, to create the Police Forensic Analyst I/II (7667/7668) classification with a salary range of \$65,166.40 – \$79,248.00 (I) and \$71,115.20 – \$86,444.80 (II) annually. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making, Municipal Code or Policy. (Human Resources) **Resolution No. 78086 adopted.**

2.12 Appointment of Interim Retiree Board Member to Board of Administration for the Federated City Employees Retirement System.

Recommendation: Appoint Ed Overton as the Interim Retiree Board Member to the Board of Administration of the City of San José Federated City Employees Retirement System until a successor is appointed by the City Council. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (Retirement Services) **Appointment approved.**

3. STRATEGIC SUPPORT SERVICES

- 3.1 Report of the City Manager, Norberto Dueñas (Verbal Report). None provided.
- 3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update. **None provided.**

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3. STRATEGIC SUPPORT SERVICES

3.3 Approval of the 2016-2017 Mid-Year Budget Review Report.

Recommendation:

- (a) Approve the 2016-2017 Mid-Year Budget Review Report. **Approved.**
- (b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2016-2017 Mid-Year Budget Review Report.

CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Staff Reports that involve no approvals of any City Actions and File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (City Manager) Ordinance No. 29880 and Resolution No. 78087 adopted, with a 50-50 split for the upgrades for the D10 Almaden Lake Park Playground Improvements, with \$75,000 from the District 10 budget and \$75,000 to be moved from the Citywide ending fund balance.

3.4 Retirement Plans' Comprehensive Annual Financial Report for Fiscal Years Ending June 30, 2016 and June 30, 2015.

Recommendation: Accept the following annual reports:

- (a) Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2016 and June 30, 2015; and
- (b) Federated City Employees' Retirement System Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2016 and June 30, 2015.

CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Annual Reports that involve no approvals of any City Actions. (Retirement Services) **Accepted.**

3.5 Report on Request for Proposal to Provide Digital Inclusion and Broadband Strategy Consulting Services.

Recommendation: Adopt a resolution authorizing the City Manager or designee to negotiate and execute an Agreement with Price Waterhouse Coopers (PwC) to provide digital inclusion and broadband strategy consulting services from February 15, 2017 through December 31, 2017, for an amount not to exceed \$315,000. CEQA: Exempt, File No. PP10-066(d), Agreements and Contracts, Consultant Services. (City Manager) *Note: Renumbered from Item 2.7*

Resolution No. 78088 adopted, with direction to have Price Waterhouse Coopers (PwC) scrutinize sources of funding beyond the General Fund.

Abstain: Rocha.

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4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Construction Tax Modification. *DEFERRED*

Recommendation: As recommended by the Community and Economic Development Committee on January 23, 2017, accept the report and approve an ordinance to:

- (a) Amend Title 4 of the San José Municipal Code to create a temporary partial suspension from the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47) to achieve a rate of 1% for the following uses:
 - (1) Office, General Business (SJMC 20.200.813)
 - (2) Office, Research and Development (SJMC 20.200.818)
 - (3) Data Center (SJMC 20.200.265) to allow the City Council the flexibility to review the uses included and verify that these sectors are being accurately represented this provision shall sunset March 31, 2022.
- (b) Amend Section 4.82.320 of Chapter 4.82 of Title 4 of the San José Municipal Code to authorize the City Manager or designee to compromise or settle tax refund claims for amounts between fifty thousand dollars (\$50,000.00) and a threshold to be determined by the City Council in its consideration of the proposed ordinance, with the written approval of the City Attorney.

CEQA: Not a Project, File No. PP10-067(a), Non-Project Funding Mechanism, Increase of Adjustment to Fees, Rates & Fares. (Economic Development) [Community and Economic Development Committee referral 1/23/17 – Item (d)(2)] **Deferred to 2/28/17 per Rules Committee.**

5. NEIGHBORHOOD SERVICES

5.1 Anti-Graffiti and Anti-Litter Programs Annual Report.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on December 15, 2016, accept the 2015-2016 Annual Report on the Anti-Graffiti and Anti-Litter Programs. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Annual Reports that involve no approval of any City Actions. (Parks, Recreation and Neighborhood Services)
[Public Safety, Finance, and Strategic Support Committee referral 12/15/17 – Item (d)(3)] (Deferred from 1/24/17 – Item 5.1)

Heard Jointly with Item 7.1 Accepted. See Item 7.1 for Action.

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6. TRANSPORTATION & AVIATION SERVICES

6.1 Agreement with Fugro Roadware, Inc., for Engineering Services for Pavement Condition and ADA Ramp Assessments.

Recommendation: Approve an Agreement with Fugro Roadware, Inc., for engineering consultant services to perform pavement condition and curb ramp assessments on the City's street network. The Agreement is for a one-year contract not to exceed \$1,250,000 with the option for five one-year extensions, for a total compensation amount not to exceed \$2,250,000 over six years. CEQA: Not a Project, File No. PP10-066(d), Agreements and Contracts, Consultant Services. (Transportation) (Deferred from 2/7/17 – Item 6.1)

Note: Heard First Immediately After Consent

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Illegal Dumping Initiative Update.

Recommendation: As recommended by the Transportation and Environment Committee on December 5, 2016, accept a status report on the City's illegal dumping mitigation efforts. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Annual Reports that involve no approval of any City Actions. (Environmental Services)

[Transportation and Environment Committee referral 12/5/16 – Item (d)(4)] (Deferred from 1/24/17 – Item 7.1)

Note: Heard Jointly with Item 5.1

The status report and 2015-2016 Annual Report on the Anti-Graffiti and Anti-Litter Programs were accepted, including the joint memorandum from Mayor Liccardo, Vice Mayor Carrasco and Councilmembers Khamis, Nguyen and Peralez, dated February 10, 2017 to direct the City Manager to: (A) Include a proposed ordinance change on the upcoming Council priority setting session that will allow staff to warn private property owners to abate graffiti on their property within 72 hours, or the City will abate and bill the owner; (B) Collaborate with BART, VTA and other jurisdictions along the BART corridor to share information and develop a strategy for increased communication and knowledge sharing on graffiti issues in anticipation of the BART system expansion opening; (C) Explore more options to use technology to help detect and report incidents of graffiti, such as devices that sense spray paint being used and will automatically alert law enforcement; (D) Expedite the hiring of unfilled FTE's associated with volunteer support services in the Adopt-A-Park and Anti-Graffiti/ Anti-Litter programs; and (E) Return to the Public Safety Finance & Strategic Support Committee and the Neighborhoods Commission in the Fall of 2017 with an update.

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7. ENVIRONMENTAL & UTILITY SERVICES

7.2 Report on Bids and Award of Contract for the 8359 – Sanitary Sewer Repairs 2016-17 Package III Project.

Recommendation: Report on bids and award of contract for the 8359 – Sanitary Sewer Repairs 2016-17 Package III project to the low bidder, Nor-Cal Pipeline Services, in the amount of \$1,567,584 and approve a ten percent contingency in the amount of \$156,758. CEQA: Exempt, File No. PP17-017, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 1, 3, 6 and 9. (Public Works) (Deferred from 2/7/17 – Item 7.1)

Accepted.

Note: Heard Second Immediately After Consent

7.3 Report on Bids and Award of Contract for the 8303 – Cast Iron Sewer Mains Replacement FY 16-17 Package I Project.

Recommendation: Report on bids and award of contract for the 8303 – Cast Iron Replacement FY 16-17 Package I Project to the low bidder, Casey Construction, in the amount of \$1,681,976 and approval of a ten percent contingency in the amount of \$168,198. CEQA: Exempt, File No. PP17-018, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 2, 5, and 7. (Public Works) (Deferred from 2/7/17 – Item 7.2)

Accepted.

Note: Heard Third Immediately After Consent

8. PUBLIC SAFETY SERVICES

8.1 Actions Related to the Agreement with South Bay Regional Public Safety Training Consortium for Support Services for Academy Training for the Police Department.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute an Agreement between the City of San José and the South Bay Regional Public Safety Training Consortium for the provision of registration, instruction and clerical support services for academy training for the San José Police Department, for \$500,000 for the period of June 1, 2016, through May 31, 2017;
- (b) Execute four additional annual renewal options with the total amount of compensation for the entire contract not to exceed \$2,500,000, subject to the appropriations of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Police) (Deferred from 2/7/17 – Item 8.1)

Deferred to 2/28/17 per Council Action.

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9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Sale of Revenue Participation Interest in the Paseo Retail, LLC Located at 140 East San Fernando Street.

Recommendation: Successor Agency Board approve the Purchase and Sale and Assignment Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José, as seller and J3 Inc. as buyer to allow the sale of the Revenue Participation Interest in the Paseo Retail, LLC located at 140 East San Fernando Street for the purchase price of \$99,000. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council District 3. (Successor Agency) **Approved.**

9.2 Sale of Property Located at 30 Eastwood Court.

Recommendation: Successor Agency Board approve the Purchase and Sale Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José, as seller and Batista S. Vieira and Dolores M. Vieira trustee under the Batista S. Vieira and Dolores M. Vieira Revocable Living Trust as buyer to allow the sale of 30 Eastwood Court for a purchase price of \$88,250. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council District 3. (Successor Agency) **Approved.**

9.3 Sale of Revenue Participation Interest in the Marriott Hotel.

Recommendation: Successor Agency Board approve the Purchase and Sale and Assignment Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José, as seller, and County of Santa Clara, as buyer, to allow the sale of the Revenue Participation Interest in the Marriott Hotel located at 301 South Market Street for the appraised value of \$12,350,000. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council District 3. (Successor Agency)

Approved.

(9-1-1. Noes: Khamis, Liccardo. Absent: Nguyen.)

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10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.
No Public Hearings on Consent Calendar.

11.2 Rehearing and Reconsideration of the Appeal of the Planning Commission's Approval of a Conditional Use Permit for Real Property Located at the 58 South 1st Street.

Recommendation:

(a) Adopt a resolution repealing Resolution No. 77970 granting the Appeal of the Planning Commission's approval of a Conditional Use Permit to allow late night use for a public drinking establishment in an existing 8,684-square foot building on an approximately 0.15-gross acre site, in the DC Downtown Primary Commercial Zoning District, approximately 400 feet southerly of East Santa Clara Street (58 South 1st Street) (Martin Trust, Owner).

Resolution No. 78089 adopted, repealing Resolution No. 77970. Noes: Carrasco, Arenas, Peralez, Liccardo.

- (b) Consider the statutory exemption pursuant to CEQA Guideline Section 15301(a) for Existing Facilities.
- (c) Conduct an Administrative Hearing on and reconsider an Appeal of the Planning Commission's approval of a Conditional Use Permit to allow late night use for a public drinking establishment in an existing 8,684-square foot building on an approximately 0.15-gross acre site, in the DC Downtown Primary Commercial Zoning District, approximately 400 feet southerly of East Santa Clara Street (58 South 1st Street) (Martin Trust, Owner).

Administrative hearing held.

(d) Adopt a resolution and make the required findings to either grant or deny the appeal for a Conditional Use Permit to allow late night use for a public drinking establishment in an existing 8,684-square foot building on an approximately 0.15-gross acre site, in the DC Downtown Primary Commercial Zoning District, approximately 400 feet southerly of East Santa Clara Street (58 South 1st Street) (Martin Trust, Owner).

Resolution No. 78090 adopted, denying the appeal of the Planning Commission's approval of a Conditional Use Permit.

Noes: Carrasco, Arenas, Peralez, Liccardo.

CEQA: Exempt, File No. CP16-005, CEQA Guidelines Section 15301(a), Existing Facilities. (Planning, Building and Code Enforcement)

CP16-005 – Council District 3

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Open Forum

None provide.

Adjournment

The Council of the City of San José adjourned at 6:36 p.m. in the memory of Mary Taylor, who passed away on January 5, 2017. We recognize her many contributions to San José over an exemplary 30-year career at City Hall. Her colleagues will remember, with great fondness, Sister Merree's extraordinary zest-for-life, and extend their deepest condolences to Mary's daughter, Michelle, and the Taylor Family.

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